

March 12, 2003

**Honorable Chairman and Members of the  
Hermosa Beach Planning Commission**

**Regular Meeting of  
March 18, 2003**

SUBJECT:                   CONDITIONAL USE PERMIT AMENDMENT 03-1 – T.J. CHARLYZ  
                                  1332 HERMOSA AVENUE

APPLICANT:             DUSTIN GREGG  
                                  315 S. FRANCISCA AVENUE  
                                  REDONDO BEACH, CA 90277

REQUEST:                TO ALLOW OUTDOOR SEATING IN CONJUNCTION WITH AN  
                                  EXISTING RESTAURANT WITH ON-SALE GENERAL ALCOHOL  
                                  AND LIVE ENTERTAINMENT

**Recommendation**

To approve the request subject to the conditions contained in the attached resolution.

**Background**

**PROJECT INFORMATION:**

ZONING:	C-2, Restricted Commercial
GENERAL PLAN:	General Commercial
EXISTING FLOOR AREA:	3,366 square feet (interior only)
RECONFIGURED FLOOR AREA:	2,976 square feet (interior) 390 square feet (exterior)
PARKING:	None
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

This project is Categorically Exempt pursuant to 15323, Class 23 of the California Environmental Quality Act Guidelines, which allows for normal operations of existing facilities for public gatherings for which the facilities were designed where there is a past history of the facility being used for the same kind of purpose.

The original C.U.P. granted in 1983, permitted on-sale beer and wine in conjunction with a restaurant. At the February 13, 1996 meeting, the City Council approved a C.U.P. amendment to allow on-sale general alcohol and live entertainment in conjunction with the existing restaurant.

**Analysis**

The project, located in the downtown, is appropriate in the zone and consistent with the General Plan. The applicant proposes to replace the existing storefront wall of the restaurant with a 3 foot high wrought iron fence, and relocate the wall 13 feet back from the front property line to create an outdoor seating area. Due to changes in the building layout, staff recommends that a new seating plan be prepared for occupant load purposes and that an acoustical study be prepared to include any required mitigation measures to ensure that the project does not negatively impact the area. Since the restaurant, as modified, continues to involve live entertainment, the attached resolution includes all the standard conditions of the

original approval relating to noise as well as outdoor seating. Staff is also including a condition for a six-month review in order to monitor the operation and compliance with the conditions.

CONCUR:

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Scott Lunceford  
Planning Assistant

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Sol Blumenfeld, Director  
Community Development Department

Attachments

1. Proposed Resolution
2. Location Map

CUP1332 (03-1)

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**P.C. RESOLUTION 03-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AND PRECISE DEVELOPMENT PLAN, AS AMENDED TO RECONFIGURE THE FLOOR PLAN, TO ALLOW OUTDOOR SEATING IN CONJUNCTION WITH AN EXISTING RESTAURANT WITH ON-SALE GENERAL ALCOHOL AND LIVE ENTERTAINMENT, AT 1301 MANHATTAN AVENUE, AND LEGALLY DESCRIBED AS LOT 44 AND NORTHERLY 50.69 FEET OF LOTS 45 & 46, HOME BUILDERS' PLACE TRACT**

Section 1. An application was filed by Dustin Gregg seeking an amendment to a Conditional Use Permit to allow outdoor seating in conjunction with an existing restaurant with on-sale general alcohol and live entertainment.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on March 18, 2003, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The original C.U.P. granted in 1983, permitted on-sale beer and wine in conjunction with a restaurant. At the February 13, 1996 meeting, the City Council approved a C.U.P. amendment to allow on-sale general alcohol and live entertainment in conjunction with the existing restaurant. The proposed amendment does not alter the existing and approved primary use as a restaurant with on-sale general alcohol and live entertainment.

2. The site is located in the downtown district, which has several similar restaurants with on-sale general alcohol;

3. The site is zoned C-2 allowing the existing on-sale alcohol use with a Conditional Use Permit.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. The site is zoned C-2, and the continued operation of the restaurant with the proposed modifications is suitable for the proposed location.

2. The imposition of conditions as required by this resolution to address noise and nuisance concerns will mitigate any negative impacts on, and will improve its compatibility with, nearby residential or commercial properties within the downtown district;

3. This project is Categorically Exempt pursuant to 15323, Class 23 of the California Environmental Quality Act Guidelines. Normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same kind of purpose.

1           Section 5. Based on the foregoing, the Planning Commission hereby approves the  
2 requested amendments to the Conditional Use Permit and Precise Development Plan, subject to the  
3 following **Conditions of Approval**, which supersede the conditions contained in C.C. Resolution  
4 96-5789:

- 5       **1. Interior and exterior building alterations and the continued use and operation of the**  
6       **restaurant shall be substantially consistent with the plans submitted and reviewed by the**  
7       **Planning Commission on March 18, 2003.**
- 8       **2. The hours of operation shall be limited to between 7:00 A.M. and 2:00 A.M. daily. Outdoor**  
9       **dining, seating and any use of the outdoor patio area shall not be allowed later than 11:00**  
10       **PM. No patrons shall be seated on the patios beginning an hour before these times.**
- 11       **3. The hours for live entertainment shall be limited to the hours between 4:00 PM to 1:15 AM**  
12       **Monday through Friday, and from 9:00 AM to 1:15 AM on Saturdays and Sundays,**  
13       **Federal and State holidays, Cinco De Mayo and St. Patrick's day.**
- 14       **4. Live entertainment shall be limited to the interior dining room only.**
- 15       **5. A code complying seating plan shall be submitted for review and approval prior to**  
16       **issuance of building permits.**
- 17       **6. An acoustical study shall be prepared by an acoustical engineer, including proposed sound**  
18       **dampening features to baffle and direct sound away from the entrance/exit and window**  
19       **areas to ensure compliance with the noise ordinance. Said study and sound dampening**  
20       **features shall be reviewed and approved by the Community Development Director prior to**  
21       **the issuance of building permits and shall be implemented in the building.**
  - 22           **A. The acoustical study shall be based on the worst-case scenario, or on a sound**  
23           **level that will not be exceeded at any given time.**
  - 24           **B. Management shall be responsible for the music/entertainment volume levels.**
  - 25           **C. During the performance of any live entertainment, the exterior doors and**  
26           **windows shall remain closed.**
  - 27           **D. The air conditioning system shall be of an adequate capacity to air condition the**  
28           **entire restaurant.**
- 29       **7. The establishment shall not adversely effect the welfare of the residents, and/or commercial**  
      **establishments nearby.**
- 8. The business shall provide adequate staffing, management and supervisory techniques to**  
      **prevent loitering, unruliness, and boisterous activities of the patrons outside the business**  
      **and in nearby public areas.**
- 9. The Police Chief may determine that a continuing police problem exists, and may authorize**  
      **the presence of a police approved doorman and/or security personnel to eliminate the**  
      **problem, and then shall submit a report to the Planning Commission, which will**  
      **automatically initiate a review of this conditional use permit by the Commission.**
- 10. The exterior of all the premises shall be maintained in a neat and clean manner, and**  
      **maintained free of graffiti at all times.**

- 1 **11. Any changes to the interior or exterior layout which would alter the primary function of**  
2 **the business as a restaurant shall be subject to review and approval by the Planning**  
3 **Commission.**
- 4 **12. The project and operation of the business shall comply with all applicable requirements of**  
5 **the Municipal Code.**
- 6 **13. No live entertainment shall be permitted in the outside seating area, and the volume level**  
7 **of any amplified music in the outside seating area shall be controlled by management to**  
8 **ensure compliance with the noise ordinance.**
- 9 **14. Noise emanating from the property shall be within the limitations prescribed by the city's**  
10 **noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,**  
11 **and/or commercial establishments. Noise emanating from the property shall be**  
12 **monitored to verify compliance with the noise ordinance in response to any complaints.**
- 13 **15. The Planning Commission shall review the operation of the restaurant and the parking**  
14 **facility for compliance with conditions of approval and compliance with the Noise**  
15 **Ordinance 6 months from the opening of the new outdoor seating area, and in response to**  
16 **any complaints thereafter.**

17 Section 6. This grant shall not be effective for any purposes until the permittee and the  
18 owners of the property involved have filed a the office of the Planning Division of the Community  
19 Development Department their affidavits stating that they are aware of, and agree to accept, all of the  
20 conditions of this grant. The grant for live entertainment shall not be in effect until the acoustical  
21 study is complete and approved by the Community Development Director, and all sound proofing  
22 measures are implemented in the building pursuant to Condition Nos. 12, 14, and 16.

23 The Conditional Use Permit and Precise Development Plan Amendment shall be recorded,  
24 and proof of recordation shall be submitted to the Community Development Department.

25 Each of the above conditions is separately enforced, and if one of the conditions of approval  
26 is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.

27 Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and  
28 employees from any claim, action, or proceeding against the City or its agents, officers, or employee  
29 to attack, set aside, void or annul this permit approval, which action is brought within the applicable  
time period of Government Code Section 65907. The City shall promptly notify the permittee of any  
claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to  
promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully  
in the defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless  
the City.

The permittee shall reimburse the City for any court and attorney's fees which the City may  
be required to pay as a result of any claim or action brought against the City because of this grant.  
Although the permittee is the real party in interest in an action, the City may, at its sole discretion,  
participate at its own expense in the defense of the action, but such participation shall not relieve the  
permittee of any obligation under this condition.

1 The subject property shall be developed, maintained and operated in full compliance with the  
2 conditions of this grant and any law, statute, ordinance or other regulation applicable to any  
3 development or activity on the subject property. Failure of the permittee to cease any development  
4 or activity not in full compliance shall be a violation of these conditions.

5 The Planning Commission may review this Conditional Use Permit and may amend the  
6 subject conditions or impose any new conditions if deemed necessary to mitigate detrimental effects  
7 on the neighborhood resulting from the subject use.

8 Section 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the  
9 decision of the Planning Commission, after a formal appeal to the City Council, must be made within  
10 90 days after the final decision by the City Council.

11 VOTE: AYES:  
12 NOES:  
13 ABSENT:  
14 ABSTAIN:

#### 15 CERTIFICATION

16 I hereby certify the foregoing Resolution P.C. 03- is a true and complete record of the action taken by  
17 the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of  
18 March 18, 2003.

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20 Ron Pizer, Chairman

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22 Sol Blumenfeld, Secretary

23 Date March 18, 2003

24 CUPR1332 (03-1)